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SUBJECT: GOLDSTONE REPORT: MEETING BETWEEN USUN DEPUTY
PERMANENT REPRESENTATIVE WOLFF AND ISRAELI LEGAL ADVISER
KEINAN

Classified By: Ambassador Wolff for reasons 1.4(b) and (d)

¶1. (C) SUMMARY: DPR Alex Wolff met October 28, 2009, with Israeli Legal Adviser Ehud Keinan, at the latter's request. Keinan provided information on the investigations the GOI has undertaken in response to complaints arising out of Operation Cast Lead. He noted the internal GOI debate on how to respond to the report, and indicated that he had been named as a member of a five member group tasked with coming up with ideas, particularly on how to address expressed concerns about the independence of the current Israeli investigative process. While he was not in a position to share any results from the group's work yet, he wanted to convey that "this is being taken seriously." Amb. Wolff shared his assessment of likely developments in the Security Council and General Assembly, and encouraged the GOI to disseminate information about their investigative process and the results with respect to Gaza complaints.

¶2. (SBU) Keinan asserted that with respect to complaints arising from Operation Cast Lead, "no allegation remains unanswered" and that there is "no possibility Israel won't investigate if accused of a war crime." He indicated that of the 36 incidents in the Goldstone Report, the GOI had been aware of and had begun investigations into 24 when the Report was issued. They have now initiated investigations into the other 12. 100 complaints have been filed and all have been investigated: 27 were passed on for criminal military action and 27 were sent back to the relevant commands with requests for further information. With respect to the other 46 cases, the conclusion had been reached that there was nothing to them. The Military Advocate General has ordered the military police to focus on the 27 most serious cases, and has established 10 military police units to investigate them. He claimed that information was routinely being taken from Palestinians at the Erez crossroads. With respect to the 100 Operation Cast Lead claims, Israel is taking measures beyond what would usually be provided. While there is already a right of appeal to the Attorney General and to the High Court of Justice for any complainant, the GOI has decided that the AG will review the disposition of each complaint whether or not an appeal is brought. He noted there were several major issues that came up in a number of cases, including (1) alleged illegal use of white phosphorus, (2) harm to UN personnel and facilities, (3) alleged damage to life-saving apparatus and (4) alleged excessive destructive of private property.

¶3. (C) Keinan said that the GOI was proud of its system of justice, but acknowledged calls for "independent" review of Israeli disposition of the complaints. He explained that there was a great deal of debate within the GOI as to how to respond, if at all. He said that military commanders are not concerned about the past (if individuals committed war crimes in Gaza, they should be punished), but rather about future conflicts. He explained that to the Israelis "independent inquiry" means one that is not done by the military, not one

done by an international body, which would not be appropriate or acceptable. While the GOI would be comfortable providing information to and cooperating with the UN Secretary-General, they would not be comfortable doing so with an international commission. What most troubles the GOI, Keinan said, are two extremely serious allegations: (1) that there was a premeditated decision by the Government of Israel to attack civilians in Gaza and (2) that there is no valid system of inquiry in Israel. He said he had learned that he had been named to a five-member group including, besides himself, the Attorney General, the Secretary of the Cabinet, the Military Advocate General and the legal Advisory to the Minister of Defense to present the Prime Minister with recommendations on how to proceed. He indicated there was a meeting today, attended by his deputy, but that he was not yet in a position to share any information. Keinan also stated Israeli disappointment that the Palestinians had approached Prosecutor Ocampo of the International Criminal Court with an international law expert on October 16 to urge him to determine that he had jurisdiction to bring cases related to Operation Cast Lead (i.e., to determine that Palestine is a state), even though they had promised not to do so.

14. (C) Amb. Wolff responded that what we are seeing is more of a deliberate premeditated campaign to discredit Israel at the UN, which began well before Gaza or the Goldstone Report. The Goldstone Report, he said, has complicated matters because it overreached so far in terms of its conclusions and recommendations. Now there is a perception that Israel is not investigating, or that it is not undertaking a serious investigative process and is just "checking the box." He urged the GOI to do more to publicize what they are doing. He indicated that the Palestinians and their allies appear to

be focused at the moment on an UNGA resolution endorsing the HRC resolution on the Goldstone Report and initiating an outside monitoring process with the possible aim of ultimately securing SC action if the Israeli investigative process is deemed inadequate. At the moment, he assessed, there is little appetite in the SC for taking up the Report.
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